

Notice of Allowability

Application No.

09/936,653

Examiner

Sanza L. McClendon

Applicant(s)

HODD ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/8/2003.
2. ☒ The allowed claim(s) is/are 25-97.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 2 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3 ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____
- 4 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5 ☐ Notice of Informal Patent Application (PTO-152)
- 6 ☐ Interview Summary (PTO-413), Paper No. _____
- 7 ☒ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other _____

Palm Bryant
RABON SERGENT
PRIMARY EXAMINER

DETAILED ACTION

Response to Amendment

1. In response to the Amendment received on October 8, 2003, the examiner has carefully considered the amendments. The examiner acknowledges the cancellation of claims 1-24 and the addition of claims 25-97.

Response to Arguments

2. Applicant's arguments, see Amendment, filed October 8, 2003, with respect to claims 1-24 have been fully considered and are persuasive. The rejections of claims 1, 13-14 and 16 under 35 USC 102(e) as being anticipated by Chudzik et al (6,156,345 and 6,007,833) has been withdrawn. The rejection of claims 1 and 13-14 under 35 USC 102(b) as being anticipated by Haton et al (4,977,293 and 5,100,987) has been withdrawn. The rejection of claims 1 and 13-14 under 35 USC 102(e) as being anticipated by Charberek et al (6,204,306 B1 and WO 96/20919) has been withdrawn. The rejection of claims 1-8 and 13-14 under 35 USC 102(b) as being anticipated by Angiolini et al has been withdrawn. The rejection of claim 16 under 35 USC 103(a) as being obvious over Chudzik et al (6,156, 345 and 6,007,833) has been withdrawn.

Allowable Subject Matter

3. Claims 25-97 are allowed.

4. The following is an examiner's statement of reasons for allowance: The reason for allowance is the photocrosslinker defined by the formula in claim 25, wherein A, B, and C are randomly distributed substituted ethylene groups, where C additionally carries a photosensitive acyl phosphine oxide or aroyl phosphine oxide group that is linked to C by a urethane linkage. The prior art fails to teach macromolecular hydrophilic photocrosslinkers comprising the definitions as characterized by claims 25, 27, 32, 42-45, 80, 83, 85, 87 and 89. The prior art fails to teach such photocrosslinkers in ophthalmically acceptable composition, in aqueous compositions, or methods of preparing or using the same. The prior

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art teach macromolecular photocrosslinker however these photocrosslinkers comprise a-ketone initiators verse phosphine oxide initiators. The prior art fails to, additionally, teach the isocyanate containing photoactive agents having the formulas found in claims 96-97. The instant invention is defined over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER' S AMENDMENT

5. An examiner' s amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner' s amendment was given in a telephone interview with Holly Kozolowski on December 15, 2003.

The application has been amended as follows:

In claim 27, line 4; delete the words "capable of" .

In claim 27, line 13; delete the words "are adapted" .

In claim 27, line 14; delete the words "adapted to" .

In claim 32, line 4; delete the words "capable of" .

In claim 32, line 25; delete the words "adapted to" .

In claim 33, line 3: delete the word "is" and insert in its place "formed from" .

In claim 34, line 3: delete the word "is" and insert in its place "formed from" .

In claim 42, line 4; delete the words "capable of" .

In claim 42, line 14; delete the words "adapted to" .

In claim 43, line 4; delete the words "capable of" .

In claim 43, line 12; delete the words "are adapted" .

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In claim 43, lines 13-14; delete the words "adapted to".

In claim 44, line 4; delete the words "capable of".

In claim 44, line 12; delete the words "are adapted".

In claim 44, lines 13-14; delete the words "adapted to".

In claim 45, line 4; delete the words "capable of".

In claim 45, line 14; delete the words "are adapted".

In claim 45, lines 15-14; delete the words "adapted to".

In claim 45, line 8, insert after C the words "formed from a compound that"

In claim 53, line 4; delete the word "sufficient".

In claim 53, line 9; delete the formula $-C(O)=N-R^{11}-C(O)P(O)R^8R^{10}$ and insert in its place the formula $"C(O)=N-R^{11}-C(O)P(O)R^8R^{10}"$

In claim 54, line 3; delete the words "sufficient".

In claim 59, line 3; delete the words "sufficient".

In claim 60, line 3; delete the words "sufficient".

In claim 61, line 3; delete the words "sufficient".

In claim 62, line 3; delete the words "sufficient".

In claim 80, line 4; delete the words "sufficient".

In claim 80, line 21; delete the words "are adapted".

In claim 83, line 4; delete the words "capable".

In claim 83, line 11; delete the words "are adapted".

In claim 83, line 12; delete the words "adapted to".

In claim 85, line 4; delete the words "capable of".

In claim 87, line 4; delete the word "sufficient".

In claim 87, line 12; delete the words "are adapted".

In claim 87, lines 13-14; delete the words "adapted to".

In claim 89, line 4; delete the word "sufficient".

In claim 89, line 12; delete the words "are adapted".

In claim 89, lines 13-14; delete the words "adapted to".

Conclusion

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanza L McClendon whose telephone number is (571) 272-1074. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0657.

Sanza L McClendon

Examiner

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RABON SERGENT
PRIMARY EXAMINER